

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN F. FLYNN, III,

Petitioner,

V.

MIKE KENNY,

Respondent.

Case No. C08-5450 RJB/KLS

**ORDER ADOPTING
REPORT AND RECOMMENDATION**

This matter comes before the Court on the Report and Recommendation of the Honorable Karen L. Strombom, United States Magistrate Judge (Dkt. 8). The Court has considered the Report and Recommendation, Petitioner’s objections (Dkt. 9), and the remainder of the file herein.

The Report and Recommendation properly concludes that this is Petitioner's third petition for writ of habeas corpus challenging his 1993 convictions for burglary and sexual assault and should therefore be transferred to the Ninth Circuit. Dkt. 8.

Petitioner objects, contending that not all habeas corpus petitions constitute a “second or successive petition.” Dkt. 9 at 1. Petitioner fails to persuade the Court, however, that matters raised in the instant petition were not yet ripe when he filed his previous petitions or that the instant petition should not be deemed a second or successive petition. Therefore, the Court does hereby find and Order:

- (1) The Court adopts the Report and Recommendation;
 - (2) The petition (Dkt. # 1) is **TRANSFERRED TO THE NINTH CIRCUIT AS A SECOND OR SUCCESSIVE PETITION.**

ORDER - 1

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2 (3) The clerk is directed to send copies of this Order to Petitioner and to the Hon. Karen
L. Strombom **AND TO ADMINISTRATIVELY CLOSE THIS FILE.**

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4 DATED this 3rd day of November, 2008.
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6 ROBERT J. BRYAN
United States District Judge

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